IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.5795 OF 2005

Hindustan Lever Employees' Union).. Petitioner
Versus
Hindustan Lever Ltd. and anothers).. Respondents

Ms.Jane Cox for the Petitioner.
Mr.C.U Singh with Mr.R.N.Shah Mr.Sanjay Udeshi
for the Respondents.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 8TH SEPTEMBER 2005

P.C. :

. This Petition challenges the order dated 15th July 2005 passed below Exhibit 53 in Complaint (ULP) No.161 of 2004 by the Member, Industrial Court, Thane, rejecting the application filed by the Petitioner for production of certain documents. These documents were:

> "3. These documents are as under :
>
> (a) The Wage Register and punching cards of all the workmen of the Respondent Company for its Taloja factory for the period January 2003 to June 2004.
>
> (b) The Lab Quality Input/Output Registers and Despatch Registers for glycerine of the Respondent Company for its Taloja factory showing the input/output for the last 3 years.
>
> (c) The Despatch Registers with regard to crude glycerin of the Respondent Company for its Sewree, Mumbai, Pondicherry, Goa, Khamgaon, Orai, Rajpura, and Cochin factories showing the dispatch for the last 2 years till date.
>
> (d) The Inward Registers with regard to refined glycerin of the Respondent Company for its Sewree, Mumbai, Pondicherry, Khamgaon,

Garden Reach and Batti, factories showing the receipt of refind glycerin for the last 2 years till date. 6. The Plaintiffs say that the suit premises have been kept locked and unused for a period exceeding six months on the date of filing of the suit. The Plaintiffs further say that the Defendants, have after coming into operation of Bombay Act LVII of 1947 acquired suitable other residence."

(e) The Despatch Registers for Aroma/Fine Chemicals listed at Annexure "A" hereto and for Phenyl Ethyl Alcohol, Rose oxide and Stable Iodate of the Respondent Company for its Taloja factory showing the input/output for the last 3 years.

(f) The statement with supporting documents including excise documents to show the year-wise despatch from 2000 to June 2004 in quantity and monetary value of glycerin, Phenyl Ethyl Alcohol, Aroma Chemicals, Rose Oxide, Stable Iodat.

2. It is the case of the Petitioner that the Respondents have closed down the Taloja factory in violation of Section 25-O of the ID Act. They also complained that there has been rationalisation in closing the factory and, therefore, a notice under Section 9A of the ID Act was required to be issued prior to the rationalisation being effected. Furthermore, according to the Petitioner, some products which were being manufactured at Taloja factory are now being manufactured elsewhere and the documents sought would establish these facts.

3. Heard Advocates.

4. The documents at Sr.No.3(a) of the application Exhibit "F" to the Complaint, namely, wage register and punching cards would, in my opinion, be necessary to decide whether or not there were more than 100 employees on an average in the 12 months preceding the date of the alleged closure. Therefore, these documents are relevant and must be produced.

5. Mr.Singh states that instead of producing the entire wage registers and punching cards for the period January 2003 to June 2004, the Respondents will submit a statement showing the attendance monthwise and give inspection of these documents to the Petitioner within two weeks from today.

6. The documents at Sr.No.3(b) to (f) of the application at Exhibit "F" to the Petition have been sought in order to establish that there was functional integrality and also that rationalisation had been effected without notice under section 9A of the ID Act being issued.

7. In my opinion, these documents are not necessary to establish the case of the Petitioner. It is for the Petitioner through evidence to produce information which is necessary to establish that there was functional integrality between the units that they claim and that

there has been in effect rationalisation prior to closure. These documents, in my opinion, would not throw any light on the functional integrality of all the Respondent-companies' factories in India, claimed by the Petitioner. Moreover, the necessary information and evidence can always be elicited by the Petitioner through the cross examination of the Respondents' witnesses. In my view, therefore, the documents at Sr.No.3(a) are relevant and the documents at Sr.No. 3(b) to (f) of Exhibit "F" need not be produced at this stage.

8. The order of the Industrial Court is set aside and the application for production of document at Exhibit "F" to the Petition is allowed only in respect of the wage register and punching cards of the Respondent Company for its Taloja factory for the period January 2003 to June 2004.

9. The assurance of Mr.Singh that the relevant statements from the wage registers and punching cards will be produced in Court and inspection will be given of these documents within three weeks from today is accepted.

10. The evidence before the Industrial Court shall start immediately after the Respondents produce the

relevant statements.

11. Writ Petition disposed of accordingly.